In the High Court of Judicature at Madras

Dated: 27.07.2007

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The Honourable Mr.Justice P.JYOTHIMANI

Contempt Petition No.483 of 2007

United Labour Federation
(Regn.No.2657/CNI)
rep. By its President
No.149
Thambu Chetty Street
Chennai 600 001. ..Petitioner

Vs

1. P. Titus Gnanadas
Managing Director
Hosur Electronic and General Engineering Pvt. Ltd.
135 & 136A
SIPCOT Industrial Complex
Hosur 635 126.

New Address: 70 A
SIPCOT (Ph.II)
Hosur 635 109.

2. V.G. John David Robinson
Manager [Administration]
Hosur Electronics and General Engineering Pvt. Ltd.

1. R.Jayaraman
135, 136A,
SIPCOT Industrial Complex
Hosur 635 126

New Address: 70 A
SIPCOT (Ph.II)
Hosur 635 109. ..Respondents

Contempt Petition filed under Sections 10 and 12 of Contempt of Courts Act, 1971.

For petitioner : Mr. V. Prakash, Sr.Counsel for Ms. Rama Priya

For Respondents : Mr. V. Sai Prasad for M/s. Sai Raj Associates

ORDER

The above contempt petition is filed by the petitioner's Union in the writ petition for punishing the respondents for wilful disobedience of the order of this Court dated 27.09.2006 made in W.P.No.27977 of 2006.

2. The petitioner Union filed the above writ petition for direction against the Management of Dynaspede Integrated Systems Private Limited, to pay the members of the petitioner Union working in the Hosur factory of the Company, their wages from July, 2006.

3. The facts of the case was that, according to the Dynaspede Integrated Systems Private Limited, who was the first respondent in the writ petition, the second respondent, viz., Hosur Electronics and General Engineering Pvt. Ltd., is their lessee and there is a dispute as to whether 56 employees are the workmen under the first respondent or the second respondent and such dispute is pending before the Conciliation Officer, Krishnagiri, apart from the non-employment of 56 workers, which is also pending. In the above writ petition, after notice was received, the second respondent, has accepted to take the workmen of the petitioner Union except one Babu Sekar in the employment of Hosur Electronics and General Engineering Private Limited without prejudice to the conciliation proceedings. It was at the instance of the counsel for the second respondent in writ petition, that the second respondent will take the said workmen without prejudice, the writ petition was disposed of by this Court by passing the following order on 27.09.2006, which reads as under:

" 4. The learned counsel for the 2nd respondent would submit that even though the 2nd respondent is taking all earnest steps to employ all the members of the petitioner Union, depending upon the policy of the 2nd respondent to employ, if the 2nd respondent is unable to employ all the 56 persons, it should be open to those whoever is not employed to work out their remedy in accordance with law. Making it clear that the 2nd respondent shall take all earnest steps as agreed by the learned counsel for the 2nd respondent to employ all members of the petitioner Union and in that event, the members of the petitioner Union shall work under the 2nd respondent without prejudice to their right and also make it clear that in the event of inability of the 2nd respondent in employing some of the members, it is always open to such members to work out their remedies in accordance with law. The writ petition is disposed of in the above terms."

4. This Court has also gives further direction in para 6, which reads as under:

" 6. It is also made clear that the 2nd respondent shall pay the salary to the members of the petitioner Union, which is claimed from July 2006, making it also clear that it is for the 2nd respondent to decide about the payment of salary for the period during which the members of the petitioner Union have not reported. The salary shall be continued to be paid from the date of report till they are employed by the 2nd respondent. "

5. The petitioner Union in the contempt petition has stated that as per the order of this Court, they

have reported for duty on 28.09.2006 before the respondents in this petition, who are the Managing Director and the Manager (Administration) respectively of Hosur Electronics General Engineering Pvt. Ltd., and salary was paid from the date of reporting till 28.02.2007.

6. It is the case of the petitioner Union that even though sufficient work was available, the same was not allotted to the members of the petitioner Union and in spite of it they have worked and till 28.02.2007 and salary was paid. It is the complaint of the petitioner Union that after 28.02.2007, the respondents have stopped work and refused to pay salary to them.

7.On the other hand, the respondents have filed counter affidavit and it is their case that the members of the petitioner Union have deliberately failed to do the work in spite of the work allotted to them and ultimately they have stopped the work from 28.02.2007 and therefore, they were not paid salary. Therefore, there is a disputed question, viz., whether the petitioner's case that in spite of sufficient work available, the members of the petitioner Union were not allowed to work especially after 28.02.2007, or in spite of the offering of work, it was the members of the petitioner Union, who have not worked and they have resorted to go-slow and ultimately stopped working. It is also not in dispute that the respondents have declared lock-out on 26.05.2007, about which an independent labour dispute has been raised and the same is pending.

8. So, on the factual position, there are two disputes pending for conciliation, one is relating to, as to who is the employer and the second relates to lock-out declared by the respondents on 26.05.2007. The present complaint by the petitioner Union is that in spite of an undertaking given in this Court, based on which the writ petition was disposed of on 27.09.2006, agreeing to pay salary till the members of the petitioner Union are employed, the respondents failed to pay salary and give work, therefore, it is disobedience of the Court's order. As I have elicited above, the second respondent would state that it is the members of the petitioner Union who have resorted to go-slow and ultimately strike was called for and have not turned up for duty from 28.02.2007.

9. On the strict sense of the order passed by this Court, wherein this Court has stated that as long as the members of the petitioner Union is continued to be employed, the second respondent should pay salary to them, which was only a temporary arrangement till the conciliation proceedings conclude. It was at the instance of the respondents Company such arrangement was made and in the disputed factual position, I do not think that there is any contempt. In view of the same, the contempt petition fails and the same is dismissed. However, it is made clear that the petitioner Union is entitled to raise any dispute in accordance with law in respect of the stand of the petitioner that the respondents have not paid salary or offered work from 28.02.2007 till the date of lock out, viz., 26.05.2007.

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